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June 7, 2023

Via ECF

Hon. Paul G. Gardephe, United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: USA v. Stuart Finkelstein
Docket No. 21-Cr-217 (PGG)

Dear Judge Gardephe:

I have received this Court's decision denying our request for an adjournment of sentencing. I understand the Court's reluctance in granting the requested adjournment to late August. However, as shown by the attached letter from Mr. Finkelstein's surgeon, I am respectfully requesting a shorter adjournment to allow Mr. Finkelstein's shoulder surgery to heal to a degree that will permit him to travel without risk.

My previous request may not have adequately described the extent of the surgery. Mr. Finkelstein's surgery involved a two-fold procedure. The first was a subacromial decompression; this relieved the pain caused by the tendons of the shoulder as they pressed against the bone and ligaments when Mr. Finkelstein raised his arm. The second part of the procedure, the distal clavicle excision, involved removing the end of the collarbone to alleviate both shoulder pain and to restore movement to the shoulder joint. Mr. Finkelstein's shoulder is immobilized in a sling for the next 6 to 8 weeks, with the exception of receiving physical therapy. The procedures involved are extremely painful, and any unanticipated movement of the shoulder can cause both excruciating pain and undo the repair work. According to Dr. Kevin Shrock, extended travel by airplane could do irreparable damage to Mr. Finkelstein's shoulder at this point. Moving through an airport, going through security, or even boarding an airplane exposes Mr. Finkelstein to crowded conditions and possible sudden jarring movements that will be painful and potentially

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damaging¹. Mr. Finkelstein suffered serious injuries as a result of his car accident. This surgery was the first step in repairing those injuries.

While I understand the Court's decision to deny my previous request, I am respectfully renewing my application for a short adjournment of one month to allow Mr. Finkelstein to recover from the surgery. I have spoken to the AUSA, who takes no position on my request but will be available for sentencing on July 24, 2023 (she is unavailable earlier in July, and will be on trial in mid-August: I will be unavailable from July 26-August 1, and again from August. With that in mind, I am requesting that sentencing be scheduled for July 24, with my sentencing submission due by June 23, and the Government's submission due by June 30, 2023. That date will allow Mr. Finkelstein approximately 7 weeks to heal.

Thank you for your consideration in this matter.

Very truly yours,


David K. Bertan, Esq.

cc: AUSA Rushmi Bhaskaran (via ECF)

¹ As a previous patient of similar surgery, I can vouch for the need to remain immobilized: any unexpected movement after these procedures causes intense pain, and risks further significant damage to the joint. Having bone removed is excruciating; the slightest motion can cause waves of intense pain.